

Louisiana Property and Casualty
Insurance Commission
Louisiana Department of Insurance
P.O. Box 94214
Baton Rouge, LA 70804-9214
www.ldi.state.la.us

Louisiana Property and Casualty
Insurance Commission
Monthly Report
Online at www.lidi.state.la.us

Volume 4 - Issue 9 - September 2004

Legislative Review

The Louisiana Property and Casualty Insurance Commission (LPCIC) held a meeting at the Department of Insurance on August 24th, with the agenda focusing on a legislative review. The meeting marked the first gathering of the LPCIC since the 2004 Regular Session had ended, and also allowed the introduction of some of the members newly appointed to the commission. These members are: Senator James David Cain, Chair of the Senate Insurance Committee; Representative Michael Jackson, Vice-Chair of the House Insurance Committee; Mr. Nick Gachassin, First Assistant Attorney General and Ms. Lorrie Brouse, representing the Alliance of American Insurers. The other new members who were unable to attend are: Representative Karen Carter, Chair of the House Insurance Committee and Senator John Hainkel, Senate Insurance Committee.

Mrs. Molly Quirk Kirby, Director of the LPCIC and Legislative Coordinator for the Department of Insurance; Mr. Charles “Chuck” McMains, representative for the Property Casualty Insurers of America Association (PCI); and Colonel Jim Champagne, Executive Director of the Louisiana Highway Safety Commission, were asked to give presentations on the recent legislation from the 2004 Regular Session to the group.

Mrs. Kirby began her presentation with a brief overview of the purpose and responsibilities of the commission for the benefit of the new members. The commission was formed to study the availability and affordability of property and casualty insurance in the state, and consists of three ad hoc committees which cover automobile, homeowners and workers’ compensation.

Mrs. Kirby touched on the state of the market pertaining to auto, homeowners and workers’ compensation insurance. Louisiana ranks 9th from the top of the states with higher auto insurance premiums, with consumers paying approximately \$215 more than the national average for insurance. Drunk drivers, poor roads and high claim frequency were stated as some of the major reasons. Louisiana is ranked number 2 in the homeowners market, with lack of competition and location being blamed for the higher rates. The location will not change, but recent legislation creating flexible rating is certainly producing a change in the competition with six new companies writing business in the state and several more interested in doing business in Louisiana. Workers’ compensation remains one of the strongest of all the property and casualty industries in the state, with moderate 1.9 to 3 percent rate increases per year as compared to 477 percent increases in the late 1980’s and early 1990’s before the creation of the Louisiana Workers’ Compensation Corporation. The work environment is getting better and safer in the state.

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- ◆ The Monthly Report is the newsletter of the Louisiana Property and Casualty Insurance Commission, Louisiana Department of Insurance, 1702 N. 3rd Street, 3rd Floor, P.O. Box 94214, Baton Rouge, LA 70804-9214 225-342-7187 (PH) 225-342-6057 (FX)
- ◆ The Monthly Report may be reprinted with prior permission.
- ◆ The Louisiana Property and Casualty Insurance Commission was created by the enactment of R.S. 22:15 in the 2001Regular Session of the Louisiana Legislature to review and examine the availability and affordability of property and casualty insurance in the state of Louisiana. The commission will also undertake a comprehensive study and provide oversight and enforcement recommendations of the effectiveness of law enforcement and implementation of programs aimed at enforcement throughout the state of those laws and programs which affect property and casualty insurance rates.

LA Property & Casualty Insurance Commission Staff
Molly Quirk Kirby, Director
Terrell Moss, Research Analyst
Rana Johnson, Staff Support

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In her role as Legislative Coordinator, Mrs. Kirby discussed the Department of Insurance’s legislative package. This past session is what the commissioner of insurance called “the year of the consumer,” with his number one goal being the passage of House Bill 349. Seeing many problems in the homeowners area with nonrenewal and cancellation of policies, there was a need for the “definition of a claim.” Some companies were marking a simple inquiry about coverage as a claim. House Bill 349 states an incident shall be deemed a claim only when there is a demand for payment by the insured or the insured’s representative under the terms of the policy. Also included in this legislative package are the following bills:

Senate Bill 852 which authorizes the Department of Insurance to give a one-time gift up to \$300,000 to the Office of Motor Vehicles to update the existing 894 DWI Database. This database creates a statewide record to help law enforcement eliminate repeat offenders.

House Bill 521 lets an insurance company issue a policy covering a motorcycle with a period not to extend more than 30 days upon an initial application for an endorsement to operate a motorcycle.

Senate Bill 731 establishes the Louisiana Automobile Theft and Insurance Fraud Prevention Authority. It allows the Department of Insurance to receive donations from insurance companies for disbursement to various municipalities in order to enhance their fight against insurance fraud and auto theft.

House Bill 523 allows insurance agents to carry over 10 hours of continuing education credits per year.

House Bill 797 provides for a 25 percent premium discount for automobile liability insurance for active military personnel paid by a credit on the premium taxes. Beginning in July 2005, one-half of the discount is authorized, with the full discount taking effect in July 2006.

Representing the PCI, Mr. Chuck McMains gave an overview of the legislative session from the insurance industry’s viewpoint. There were around 300 bills tracked that affected the insurance industry in some capacity, with less than 30 bills passing that dealt with property and casualty. The discussion centered on some of the major issues that failed to pass which included any changes to the jury trial threshold, credit scoring in insurance, frivolous lawsuits, and the introduction of evidence of failure to wear a safety belt in the determination of comparative negligence, apportionment of fault, or mitigation of damages.

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Louisiana Property and Casualty Insurance Commission Members		
Commissioner Robert Wooley		Tom O’Neal
Jeff Albright		Theodore “Ted” Haik, Jr.
Col. Jim Champagne	Representative Karen Carter	Aubrey T. Temple, Jr.
Chuck McMains	Representative Michael Jackson	Nicholas Gachassin
Terry Lisotta	Earl Taylor	Richard Clements
H. “Marc” Carter	Kay Hodges	Chad Brown
Senator James David Cain	Lorrie Brouse	Senator John Hainkel

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The jury trial threshold issue was delegated to HCRS 30 asking Civil Law and Jud A Committees to jointly study the issues and report to the legislature prior to the 2006 Regular Session.

There were several bills introduced to prohibit the use of credit scoring in insurance, however, HB 1449, HB 1452, and SB 215 all failed to pass. The failure may be attributed to the fact that there has not been enough time to look at the impact of the legislation passed two years ago that regulated the usage of credit scoring in insurance. He projects that Louisiana’s law on credit scoring is generally regarded nationally as one of the more progressive ones in the country.

Several bills that did pass this session that were a major priority from the industry standpoint were Senate Bill 731, which deals with fraud prevention; and House Bill 1514, the Commercial Dereg legislation. HB 1514 allows the Department of Insurance the authority to review and approve rates for all commercial property and casualty insurance. It also permits file and use for rates with rates deemed approved unless disapproved within the 45 day waiting period.

Mr. McMains stated that the insurance industry’s primary goal is to continue to create a more competitive market in Louisiana. Strides have been made but there are still some problems that exist for insurance companies coming into Louisiana. He pointed out that the jury trial threshold, direct action statute, collateral source rule and higher verdicts per claim are still perceived as deterrents to carriers and businesses.

As executive director of the Louisiana Highway Safety Commission, Colonel Champagne is charged with correcting the driving behavior of the citizens of this state, which is a monumental task based on the results of the 2003 Traffic Crash Report. He reported that for the ninth consecutive year, over 900 deaths occurred on Louisiana highways. Last year there were 160,000 crashes with 82,000 injuries. This represents a 30 percent higher average than other states with similar populations.

Col. Champagne was pleased to announce that there was legislation passed that will have a direct effect on drinking and driving in Louisiana. First of all, the open container law that passed extends to all passengers in a moving vehicle, which was a major step for Louisiana. However, because this law did not meet the Federal mandates, \$10 million highway construction dollars will once again be diverted to hazard elimination. Secondly, the mandatory motorcycle helmet law became effective August 15th, recognized as a real public safety issue by the governor.

Some of the other bills mentioned in Col. Champagne’s summary that addressed life saving and injury prevention measures were:

HB 1712 requires an interlock device on the vehicle of a DWI offender convicted of driving under suspension.

HB 549 insures that substance abuse treatment will be given to convicted 3rd and 4th DWI offenders.

Senate Bill 556 establishes the impaired driver tracking system and requires agencies to provide all pertinent information of persons charged with DWI offenses.